

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**ALBERT EDWARD WHEELER, III, : CIVIL ACTION NO. 3:16-CV-1916**

:  
**Plaintiff : (Chief Judge Conner)**

:  
**v.**

**NANCY A. BERRYHILL, Acting  
Commissioner of Social Security,**

:  
**Defendant :**

**ORDER**

AND NOW, this 27th day of March, 2018, upon consideration of the report (Doc. 14) of Chief Magistrate Judge Susan E. Schwab, recommending that the court vacate the decision of the administrative law judge denying the application of plaintiff Albert Edward Wheeler, III (“Wheeler”), for a period of disability and disability insurance benefits, and remand this matter for further proceedings in accordance with sentence four of 42 U.S.C. § 405(g), wherein Judge Schwab opines that the administrative law judge’s decision is not “supported by substantial evidence,” 42 U.S.C. § 405(g), and it appearing that neither Wheeler nor the Commissioner of Social Security (“Commissioner”) object to the report, see FED. R. CIV. P. 72(b)(2), and that the Commissioner has expressly waived the opportunity to do so, (see Doc. 15), and the court noting that failure to timely object to a magistrate judge’s conclusions “may result in forfeiture of *de novo* review at the district court level,” Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (citing Henderson v. Carlson, 812 F.2d 874, 878-79 (3d Cir. 1987)), but that, as a matter of good practice, a district court should “afford some level of review to dispositive

legal issues raised by the report,” Henderson, 812 F.2d at 878; see also Taylor v. Comm’r of Soc. Sec., 83 F. Supp. 3d 625, 626 (M.D. Pa. 2015) (citing Univac Dental Co. v. Dentsply Int’l, Inc., 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010)), in order to “satisfy itself that there is no clear error on the face of the record,” FED. R. CIV. P. 72(b), advisory committee notes, and, following review of the record, the court in agreement with Judge Schwab’s recommendation, and concluding that there is no clear error on the face of the record, it is hereby ORDERED that:

1. The report (Doc. 14) of Chief Magistrate Judge Schwab is ADOPTED.
2. The Clerk of Court shall enter judgment in favor of Wheeler and against the Commissioner as set forth in the following paragraph.
3. The Commissioner’s decision is VACATED and this matter is REMANDED to the Commissioner with instructions to conduct a new administrative hearing, develop the record fully, and evaluate the evidence appropriately in accordance with this order and the report (Doc. 14) of Chief Magistrate Judge Schwab.
4. The Clerk of Court is directed to CLOSE this case.

/S/ CHRISTOPHER C. CONNER

Christopher C. Conner, Chief Judge  
United States District Court  
Middle District of Pennsylvania